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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,590	11/16/2005	Martin Thompson	692P001	4242
42754	7590	09/27/2006	EXAMINER	
NIELDS & LEMACK 176 EAST MAIN STREET, SUITE 7 WESTBORO, MA 01581			BELLAMY, TAMIKO D	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/540,590

Applicant(s)

THOMPSON ET AL.

Examiner

Tamiko D. Bellamy

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 17-19 and 28-30 is/are rejected.
- 7) ☒ Claim(s) 6-16, 20-27 and 31-33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                               |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                          | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/2/06</u> | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 5, 9, and 40. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claims 6-16, 20-27, and 31-33 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot be a dependent from another multiple dependant claim. See MPEP § 608.01(n). Accordingly, the claims 6-16, 20-27, and 31-33 have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Fraser (3,517,546).

Re claim 1, as depicted in figs. 1 and 2, Fraser discloses a housing (12) capable of traveling in a pipeline (10). Fraser discloses a housing (12) accommodating a, hydrophone (15), a timer (27) and a memory (e.g., recorder 26). Fraser discloses the hydrophone and the timer are capable of generating an output and the memory (e.g., recorder 26) is capable of recording the hydrophone output with reference to the timer output (Col. 3, lines 15-47).

Re claim 2, as depicted in fig. 1, the housing (12) comprises a resilient outer surface (e.g., housing comprising a plurality of scraper cups (13) formed of resilient material) (Col. 2, lines 63-68).

Re claim 3, as depicted in fig. 1, Fraser discloses the housing (12) is shaped and sized such that the device may be introduced and received from the pipeline through a fitting.

Re claim 4, Fraser discloses the housing (12) is sized and shaped to travel with the flow of the fluid through the pipeline (10) (Col. 2, lines 59-63).

Re claim 17, Fraser discloses detecting and recording the occurrence of noise into the flow of fluid within a pipeline (10). Fraser discloses causing the leak location device to record the time at which the noise is detected (Col. 3, lines 50-51; Col. 4, lines 2-13).

Re claim 18, Fraser discloses retrieving the leak location from the pipeline (10).

Re claim 19, Fraser discloses detecting onto a computer device.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser (3,517,546).

Re claim 5, as depicted in fig. 1, Fraser discloses the housing (12) is rectangular.

While, Fraser lacks the detail of a spherical housing, the court held in, In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966), that a change in the shape of a prior art device is a design consideration within the skill of the art. Therefore, to employ Fraser on a housing that is spherical would have been obvious to one of ordinary skill in the art at the time of the invention since this reference explicitly teaches a housing that is rectangular.

Re claim 6, as depicted in fig. 1, Fraser discloses the housing (12) is rectangular.

While, Fraser lacks the detail of a oval housing, the court held in, In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966), that a change in the shape of a prior art device is a design consideration within the skill of the art. Therefore, to employ Fraser on a housing that is oval would have been obvious to one of ordinary skill in the art at the time of the invention since this reference explicitly teaches a housing that is rectangular.

7. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser (3,517,546) in view of Guest (3,691,819).

Re claim 28, Fraser discloses detecting and recording the occurrence of noise and the leak location data internally within the housing (12). Fraser lacks the detail of a monitoring means capable of transmitting signals and the leak detection device is capable of receiving the

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transmitted signals. Guest discloses a transmitter external to the pipeline and the leak detection device receiving the transmitted signal. Therefore, to modify Fraser by employing monitoring means with a transmitter and receiver would have been obvious to one of ordinary skill in the art at the time of the invention since Guest teaches an acoustic leak detection device having these design characteristics. The skilled artisan would be motivated to combine the teachings of Fraser and Guest since Fraser states that his invention is applicable to a leak detection device within a pipeline including monitoring means and Guest is used only to provide the added limitation of a monitoring means that includes a transmitter and receiver.

#### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamiko D. Bellamy whose telephone number is (571) 272-2190. The examiner can normally be reached on Monday - Friday 7:30 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tamiko Bellamy

*T.B.*  
September 22, 2006



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